

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JIMMY LEE SMART,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. CIV-20-00986-JD
	)	
SHARON McCOY, Warden,	)	
	)	
Respondent.	)	

**ORDER**

Before the Court is a Report and Recommendation [Doc. No. 7] issued by United States Magistrate Judge Shon T. Erwin on October 26, 2020, recommending that Petitioner Jimmy Lee Smart’s (“Mr. Smart”) Petition for Writ of Habeas Corpus [Doc. No. 1] be dismissed as untimely. Judge Erwin advised Mr. Smart that he may file an objection to the Report and Recommendation with the Clerk of Court by November 12, 2020, and that failure to timely object to the Report and Recommendation waives the right to appellate review of both factual and legal issues contained in the Report and Recommendation. [Doc. No. 7 at 7]. *See also Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

The record reflects that Mr. Smart did not timely file an objection to the Report and Recommendation or request an extension of time to do so. The Court therefore **ADOPTS** the Report and Recommendation [Doc. No. 7] for the reasons stated therein. Mr. Smart’s petition is **DISMISSED** as untimely.

**IT IS SO ORDERED** this 23rd day of December 2020.

A handwritten signature in black ink, appearing to read "Jodi W. Dishman", is written over a horizontal line.

JODI W. DISHMAN  
UNITED STATES DISTRICT JUDGE